

REMARKS

Claims 1-9, 11-13, and 15-39 were pending as of the final office action mailed on March 21, 2006. A notice of appeal, appealing the March 31, 2006 final action, and a pre-appeal brief request for review were filed on July 20, 2006. An appeal brief was filed on September 20, 2006. An examiner's answer to the appeal brief was mailed on December 19, 2006.

Claims 1, 12, 15, 23, 25, 36, and 37 have been amended. Claims 1, 12, 23 were amended to further clarify the claimed invention. Support for these amendments are found in pages 14-15 of the specification and Figures 3, 5-6, for example. Claims 36 and 37 were amended to make their forms consistent with the independent claim from which they depend. Claims 15 and 25 were amended to remove superfluous language. No new matter was added.

This reply is being filed with a Request for Continued Examination (RCE) before a decision on the appeal. It is the understanding of the applicant that the filing of the RCE will have the effect of withdrawing the appeal. See MPEP 1215.01.

§ 102(b) REJECTION

The claims were rejected as unpatentable over the D-Cubed dimensional constraint manager (DCM) product, as it was described in a February 3, 2001 version of a page from the official website of D-Cubed, Ltd., at http://web.archive.org/web/2010203144400/www.d-cubed.co.uk/prod_dcm_intro.htm (hereinafter "D-Cubed web page"). More particularly, the examiner alleges that the D-Cubed DCM product was in public use or on sale more than one year before the filing date of the instant application. The applicant respectfully disagrees and traverses the rejection.

When the examiner earlier suggested that the applicant submit information regarding the D-Cubed product, the applicant was unable to locate information regarding the D-Cubed product. However, the applicant has now located and is hereby submitting, in an Information Disclosure Statement accompanying this reply, a product manual, dated January 2002, for the D-Cubed 2D Dimensional Constraint Manager (hereinafter "D-Cubed product manual"). By submitting the D-Cubed product manual to the USPTO, the applicant does not admit, imply, or concede that the D-Cubed product manual or the D-Cubed product are prior art or constitute material information.

An underlying premise of the § 102(b) rejection is that the claims are anticipated by the D-Cubed DCM product, as it is described in one or more references. In the office action, the D-Cubed web page was relied upon as the description of the product by the examiner because the examiner presumably does not have intimate knowledge of the D-Cubed product. As it will be discussed below, the descriptions of the product in the D-Cubed web page and in the D-Cubed product manual do not anticipate the amended claims. Therefore, this rejection should be withdrawn.

§ 102(a) REJECTION

The claims were rejected as anticipated by the D-Cubed web page. The rejection is respectfully traversed.

As a preliminary matter, the applicant notes that in the grounds of rejection, the examiner merely directs the applicant to passages in the D-Cubed web page, without any explanation or elaboration of how the recitations of the claims read upon the cited passages. This is insufficient. A claim rejection violates 35 U.S.C. § 132 if it “is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection.” *Chester v. Miller*, 906 F.2d 1574, 1578 (Fed. Cir. 1990).

Claim 1. Amended claim 1 recites in part, “automatically maintaining continuous enclosure of the pattern within the boundary of the modified CAD geometry piece, including modifying at least one of the pattern or the plurality of features to be continuously included within the boundary of the modified CAD geometry piece.” After a CAD geometry piece is modified, enclosure of the pattern of the features within the boundary of the modified CAD geometry piece is automatically maintained. Thus, for example, if the CAD geometry piece is modified such that a portion of the pattern is outside of the boundary of the modified CAD geometry piece, the pattern can be modified to maintain enclosure of the pattern within the boundary. The modifications to the pattern can include removing features from the pattern and changing dimensions of the features, for example. *See, e.g.,* specification, p. 15 line 14 – p. 18 line 2, p. 20 lines 6-13. If a feature overlaps or interferes with the boundary, for instance, it can be removed from the pattern or resized (e.g., made smaller).

The examiner cites a passage of the D-Cubed web page that describes very briefly re-calculating locations of geometries whilst ensuring consistency with previously applied dimensions and constraints. The examiner also asserts, without any reasoning or support, that the recited "boundary" is a constraint taught by the D-Cubed web page. Even assuming that the examiner's assertion, that the recited "boundary" is a constraint, is correct, the D-Cubed web page still does not disclose the recited feature. Re-calculating locations of geometries while maintaining consistency with constraints says nothing about maintaining enclosure of a pattern within the boundary of a CAD geometry piece. The D-Cubed web page does not disclose automatically maintaining enclosure of a pattern within the boundary of the modified CAD geometry piece. Thus, the D-Cubed web page does not anticipate claim 1.

The D-Cubed product manual describes support for pattern constraints in Section 4.2.11 of the manual. While the D-Cubed product manual describes forming a linear or angular pattern by repeating a geometry in a linear or circular direction about a reference node, it does not disclose automatically maintaining enclosure of the pattern within a boundary of a modified CAD geometry piece. Thus, the D-Cubed product manual does not anticipate claim 1.

For at least the reasons stated above, the rejection of claim 1 should be withdrawn.

Claim 2-9, 11, 34-35. These claims depend directly or indirectly from claim 1. The rejection of these claims should be withdrawn for at least the reasons stated above.

Claim 12, 13, 15-22, 36-37. Amended claim 12 recites an apparatus having instructions that cause the apparatus to perform operations corresponding to those recited in the method of amended claim 1. Thus, the rejection should be withdrawn for at least the reasons stated above.

Claims 13, 15-22, 36-37 depend directly or indirectly from claim 12. The rejection of these claims should be withdrawn for at least the reasons stated above.

Claim 23, 24-33, 38-39. Claim 23 recites an article having instructions that cause a machine to perform operations corresponding to those recited in the method of amended claim 1. Thus, the rejection should be withdrawn for at least the reasons stated above.

Claims 24-33, 38-39 depend directly or indirectly from claim 23. The rejection of these claims should be withdrawn for at least the reasons stated above.

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CONCLUSION

For the foregoing reasons, the applicant submits that all of the pending claims are in condition for allowance.

By responding in the foregoing remarks only to particular positions taken by the examiner, the applicant does not acquiesce with other positions that have not been explicitly addressed. The applicant reserves the right, in replies to future actions, to address other positions that have not been explicitly addressed in this reply. In addition, the applicant's arguments for the patentability of a claim should not be understood as implying or conceding that no other reasons for the patentability of that claim exist.

Because this reply is filed after a notice of appeal and before a decision on the appeal, no extension of time is believed to be necessary. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

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